IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 15853 of 1993

Between:

P.Jayalaxmi W/o.K.R.Rao, aged 30 years,
R/o.Quarter No.386-A, HAL Colony, Balanagar , Hyderabad.

..... PETITIONER

AND

1 The Joint Collector, Nizamabad.
2 The Mandal Revenue Officer,
Bodhan , Nizamabad District.
3 The Mandal Revenue Officer,
Kotgir, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly a writ in the nature of a writ of Certiorari calling for the records relating to the passing of orders in Proc.No.No.D6/8892/88 Dt: 25-8-1993 by the 1st respondent herein and quash the same as arbitrary and illegal.

Counsel for the Petitioner:MR.S.SATYAM REDDY.
Counsel for the Respondent Nos.1 to 3: G.P. for Revenue.

The Court made the following :

THE HONOURABLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION No.15853 OF 1993

ORDER:

Heard both the learned counsel.

The petitioner who claims to be belonged to the Scheduled Caste, filed this writ petition inter-alia seeking to challenge the correctness of the impugned order dated 25.08.1993 passed by the first respondent in Proc.No.D6/8892/88, where under the first respondent herein sought to cancel the Scheduled Caste Certificate issued to her on 09.10.1980, on the ground that she does not belong to the Scheduled Caste.

Several contentions have been urged across the bar. However, the main grievance of the petitioner is that subsequent to the orders passed by this Court earlier in the writ petition, though she has asked for an enquiry to be made in her presence, no opportunity was given. However, the said fact is denied on behalf of the respondents stating that initially the petitioner was given a show-cause notice on 24.05.1991 and she had already submitted her explanation on 17.06.1991. Thereafter, the concerned Assistant Collector, Bodhan, was again conducted enquiry and who, after enquiry, submitted a report on 14.11.1991. Thereupon, the petitioner was given three personal hearings on 31.12.1992, 28.01.1993 and 18.02.1993, for which the notice has been duly served and in spite of the same, she was not availed of the same and therefore, the impugned orders have been passed.

The learned counsel appearing for the petitioner submitted that having regard to her

engagement and employment at Hyderabad, she could not personally present in those days and she has filed an application on 10.02.1993 requesting time. However, the same was not considered and therefore, the impugned orders are virtually without any enquiry in her presence. Admittedly, enquiry conducted by the Assistant Collector, Bodhan, was one without any notice and not in her presence and therefore, ultimately the petitioner has not been given proper opportunity.

Considering the submissions made on behalf of both the parties and also on perusal of the material, it is seen that the petitioner, who belongs to Mala caste, states that the main enquiry conducted by the Assistant Collector, Bodhan is without any notice and not in her presence and further the personal hearings given by the first respondent could not be availed by the petitioner due to her engagement and therefore, her application filed later was not acceded to. In view of the same and especially having regard to the fact that the cancellation of caste certificate involved the incidents affecting substantial rights of the petitioner, it is more desirable that one more opportunity be given to the petitioner before any final decision is given, especially when the enquiry conducted by the Assistant Collector, Bodhan, is not in her presence.

The writ petition is accordingly allowed. The impugned order dated 25.08.1993 is set aside. The first respondent is directed to conduct a fresh enquiry after giving notice and opportunity to the petitioner and pass orders in accordance with Law taking into consideration the evidence and material produced on her behalf. No costs.

_____

15.07.2004

cs/skmr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the Fifteenth day of July, Two Thousand and Four.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1.The Joint Collector, Nizamabad.

2.The Mandal Revenue Officer, Bodhan, Nizamabad District.

3.The Mandal Revenue Officer, Kotgir, Nizamabad District.

4. Two C.Cs.to the Government Pleader for Revenue, High Court Buildings, Hyderabad. (O.U.T.)

5. Two C.D. copies.